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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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12/03/2001

Dale E. Gulick

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WILLIAMS, MORGAN & AMERSON
10333 RICHMOND, SUITE 1100
HOUSTON, TX 77042

EXAMINER

CLEARY, THOMAS J

ART UNIT

PAPER NUMBER

2111

MAIL DATE

DELIVERY MODE

07/13/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte: DALE E. GULICK

Application No. 10/005,648
Technology Center 2100

Mailed: July 13, 2009

Before PAULA CONN, *Paralegal Specialist*
CONN, *Paralegal Specialist*.

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received by the Board of Patent Appeals and Interferences on August 14, 2008. A review of the application revealed that it is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner to address the following matter(s) requiring attention prior to docketing.

APPEAL BRIEF

Appellant filed an Appeal Brief on February 12, 2007, under the rules set forth in 37 CFR § 41.37(c). However, a review of the Appeal Brief reveals that it is not in compliance with the new rules under 37 CFR § 41.37(c), which states:

(c)(1) The brief shall contain the following items under appropriate headings and in the order indicated in paragraphs (c)(1)(i) through (c)(1)(x) of this section, except that a brief filed by an appellant who is not represented by a registered practitioner need only substantially comply with paragraphs (c)(1)(i) through (c)(1)(iv) and (c)(1)(vii) through (c)(1)(x) of this section.

A review of the Appellants' Appeal Brief reveals that the following does not comply with 37 CFR § 41.37(c):

37 CFR § 41.37(c)(1)(vii), which is identified in the new rules as:

(vii) *Claims appendix*. An appendix containing a copy of the claims involved in the appeal.

Section 37 CFR § 41.37(c) further states:

(d) If a brief is filed which does not comply with all the requirements of paragraph (c) of this section, appellant will be notified of the reasons for non-compliance and given a time period within which to file an amended brief. If appellant does not file an amended brief within the set time period, or files an amended brief which does not overcome all the reasons for non-compliance stated in the notification, the appeal will stand dismissed.

An entire new Brief need not, and should not, be filed. Rather, a paper providing clean copy of the claims involved in the appeal will be suffice. Failure to timely respond to the Office's requirement will result in dismissal of the appeal. See MPEP § 1215.04 and §711.02(b).

CONCLUSION

Accordingly, it is ORDERED that the application is returned to the Examiner to:

- 1) to hold the Appeal Brief filed on February 12, 2007, defective;
- 2) notify Appellant to submit a PTOL-90 which contains a clean copy of the claims involved in the appeal under the Claims appendix section, paragraph (9); and
- 3) for such further action as may be appropriate.

If there are any questions pertaining to this order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

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